

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAROLYN SPATAFORA,

Plaintiff,

v.

TOWN SPORTS INTERNATIONAL HOLDINGS,
INC.,

Defendant.

The Clerk shall terminate ECF No. 11.

So ordered,
/s/ Hon. Alvin K. Hellerstein
April 2, 2021

Civil Action No.: 1:21-cv-477

**MEMORANDUM OF LAW IN
SUPPORT OF JOINT MOTION TO
ENTER BRIEFING SCHEDULE AND
FOR LEAVE TO WITHDRAW
MOTION TO DISMISS**

Plaintiff Carolyn Spatafora and Defendant Town Sports International Holdings, Inc. (“TSI”), by and through their undersigned counsel, in support of their joint motion for leave to withdraw the pending motion to dismiss (ECF No. 11) and to enter a briefing schedule for a motion to dismiss Plaintiff’s first amended complaint (ECF No. 19), state as follows:

1. The original complaint was filed on January 19, 2021. (ECF No. 1).
2. On March 3, 2021, TSI filed a motion to dismiss the complaint (ECF No. 11) and on March 4, 2021, filed a motion to compel arbitration (ECF No. 14).
3. On March 23, 2021, Plaintiff filed an amended complaint (ECF No. 19).
4. The amended complaint raises new allegations not addressed in TSI’s motion to dismiss.
5. TSI intends to move to dismiss the first amended complaint.
6. The parties agree and submit that the most efficient course is for TSI to withdraw its pending motion to dismiss, and for the Court to enter a briefing schedule as follows for TSI to file a motion to dismiss the first amended complaint:
 - a. TSI to file a motion to dismiss on or before April 21, 2021;

- b. Plaintiff to file her response on or before May 12, 2021, and
- c. TSI to file a reply, if any, on or before May 21, 2021.

7. WHEREFORE, for the reasons stated herein, the parties jointly and respectfully request that the Court grant leave to withdraw the pending motion to dismiss (ECF No. 11) and enter a briefing schedule for a motion to dismiss the first amended complaint as set forth above.

Dated: March 31, 2021
New York, New York

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document by using the Court's Electronic Filing (CM/ECF) system on March 31, 2021, and service to all counsel of record was accomplished by that system.

Dated: New York, NY
March 31, 2021

/s/ Massimo F. D'Angelo
Massimo F. D'Angelo